

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Jerry L. Holstad and Dorothy M. Holstad,

Plaintiffs,

v.

ORDER

Civil No. 07-2162 ADM/AJB

Secretary of Veterans Affairs and
David McCalip as agent for Veterans Affairs,

Defendants.

Plaintiffs made no appearance.

Christina M. Weber, Esq., Wilford & Geske, P.A., Minneapolis, MN, argued on behalf of Defendants.

Oral argument was heard this morning before the undersigned United States District Judge on Defendants Secretary of Veterans Affairs and David McCalip's (collectively "Defendants") Motion to Dismiss [Docket No. 2]. In their Complaint [Docket No. 1], Plaintiffs Jerry L. Holstad and Dorothy M. Holstad (collectively "Plaintiffs") allege that Defendants issued a "fraudulent document" on Plaintiffs' former property. The Court finds that Plaintiffs have failed to plead fraud with particularity as required by Federal Rule of Civil Procedure 9(b). Therefore, Plaintiffs' fraud claim and all claims premised upon the alleged fraud are dismissed. Plaintiffs' due process claim is dismissed under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted. See Bell Atl. Corp. v. Twombly, 127 S. Ct. 1955, 1974 (2007) (stating that a complaint must allege "enough facts to state a claim to relief that is plausible on its face").

Plaintiffs failed to make any legal arguments in response to Defendants' Motion, and Plaintiffs did not appear at oral argument. Accordingly, Plaintiffs' Complaint is dismissed with prejudice.

Based upon the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Defendants' Motion to Dismiss [Docket No. 2] is **GRANTED**;
2. Plaintiffs' Complaint [Docket No. 1] is **DISMISSED WITH PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

BY THE COURT:

s/Ann D. Montgomery
ANN D. MONTGOMERY
U.S. DISTRICT JUDGE

Dated: September 21, 2007.